

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

| | | |
|-------------------------------------|---|------------------------|
| MICHAEL BAILEY-LOMBARDELLI, | : | Case No. 1:18-cv-487 |
| | : | |
| Plaintiff, | : | Judge Timothy S. Black |
| | : | |
| vs. | : | |
| | : | |
| SEARS BRANDS, LLC., <i>et al.</i> , | : | |
| | : | |
| Defendants. | : | |

ORDER OF DISMISSAL

This civil case is before the Court on Defendants' unopposed motion for case closure. (Doc. 14). This case has been stayed pending bankruptcy proceedings. (11/15/2018, 11/21/2018 Notation Orders). In the motion, Defendants state that the Bankruptcy Court has issued a permanent injunction which provides for the "exclusive remedies of unsecured creditors," such as the plaintiff in this action. (Doc. 14 at ¶ 5). Given the permanent injunction, Defendants request that the Court close this case. Plaintiff does not oppose the requested relief. (*Id.* at ¶ 6).

The motion, however, is silent on how the case should be closed, *i.e.*, whether Plaintiff's complaint should be dismissed with or without prejudice. Because the unopposed case closure is not an adjudication on the merits, the Court finds dismissal without prejudice is appropriate. *Cf.* Fed. R. Civ. P. 41(a) (unless a notice or stipulation of dismissal states otherwise, the dismissal is without prejudice).

Based on the foregoing, Defendants' motion for case closure (Doc. 14) is **GRANTED**. The complaint is **DISMISSED without prejudice**, whereupon this case shall be **TERMINATED** on the docket of this Court.

IT IS SO ORDERED.

Date: 1/9/2023

s/Timothy S. Black

Timothy S. Black
United States District Judge